

August 17, 2012

Alison Hess
Emergency & Remedial Response Division
U.S. Environmental Protection Agency – Region 2
290 Broadway, 20th Floor
New York, NY 10007-1866

RE: Construction Completion Report – Mitigation

Sites: Standard Chlorine Chemical Company, Inc. (SCCC) & Former Diamond Sites

1015, 1025-1035 Belleville Turnpike, Kearny, Hudson County, New Jersey
‣ SCCC Site - Block 287, Lots 48, 49, 50, 51, 52, 52R and Portion of Lot 32.01
‣ Diamond Site - Block 287, Lots 32.02, 46, 47, and 47R

Dear Ms. Hess:

On behalf of the Peninsula Restoration Group¹ (PRG), Key Environmental, Inc. (KEY) is providing herein the Construction Completion Report for the Wetland Mitigation Project located at the SCCC & Former Diamond Sites, Kearny, Hudson County, New Jersey.

In order to implement the approved Interim Response Action Workplan² (IRAW) activities a total of 1.65 acres of on-site wetlands were to be unavoidably disturbed. Accordingly, a Wetland Mitigation Plan³ (WMP) was prepared for mitigation of a total of 0.06 acres of estuarine tidal wetlands, 0.47 acres of isolated wetlands and 1.12 acres of freshwater wetlands. In addition, approximately 1.3 acres of intertidal subtidal shallows (mudflats) were also to be disturbed as part of the approved remediation activities. To restore on-site the wetlands and intertidal flats as generally proposed in the WMP, necessary New Jersey Department of Environmental Protection (NJDEP) permits^{4,5} and Environmental Protection Agency (EPA) approvals⁶ were obtained. Based on the site conditions encountered during construction, a request for modification⁷ to replace the on-site tidal emergent wetland creation with a combination of the purchase of

¹ The Peninsula Restoration Group is comprised of Standard Chlorine Chemical Co., Inc. (SCCC), Tierra Solutions, Inc. (Tierra) and Beazer East Inc. (Beazer).

² Key Environmental, Inc., October 2008, Final Interim Response Action Workplan (IRAW), Standard Chlorine Chemical Company Site and Diamond Site, Kearny, New Jersey.

³ Key Environmental, Inc., April 2010, Shoreline Restoration and Tidal Emergent Wetland Mitigation Plan, Interim Response Action, SCCC Site and Diamond Site, Kearny, New Jersey.

⁴ NJDEP DLUR, March 26, 2010, Waterfront Development Permit/Flood Hazard Permit, Water Quality Certificate, SCCC and Diamond Sites, Interim Response Action, City of Kearny, Hudson County.

⁵ NJDEP, June 30, 2010, Letter RE: Wetland Mitigation Plan Approval, SCCC and Diamond Sites Interim Response Action, City of Kearny, Hudson County.

⁶ EPA, June 11, 2010, Letter, ARARs identified and addressed prior to start of IRA, Standard Chlorine Superfund Site.

⁷ Princeton Hydro, LLC, April 8, 2011, Letter RE: Request to Modify Wetland Mitigation Approach, SCCC and Diamond Sites, Kearny, New Jersey.

420302



0.225 acres of off-site credits from a mitigation bank and a total of 1.3 acres of on-site intertidal flats restoration was approved⁸ by the NJDEP and EPA.

In accordance with the approved WMP and in conjunction with the modification referenced above, the following mitigation activities were completed at the sites:

- Intertidal Subtidal Restoration – As part of the IRAW activities, near-shore river sediments were excavated to the limits required by the IRAW. Subsequently, the excavated areas were backfilled to restore the intertidal flats. The restoration activities were completed in July 2011. A final as-built survey (MTG-01) was completed, which identified the total mudflat restoration area of 1.41 acres.
- Freshwater Emergent Wetland Mitigation – As part of the IRAW activities, a portion of the on-site isolated and freshwater wetlands were unavoidably disturbed. The WMP identified the limits of freshwater wetland mitigation area that was comprised of 1.20 acres generally located in the SCCC drainage ditch areas. As such, subsequent to construction of the proposed stormwater culvert system and placement of backfill materials, the freshwater wetland mitigation was completed within the SCCC site drainage ditch areas. Because the available area was somewhat narrower in certain segments than originally anticipated, the mitigation area was extended into the adjacent drainage ditch areas to provide for the required mitigation acreage. The mitigation activities were completed in November 2011. A final as-built survey (MTG-01) was completed, which identified the total freshwater wetland mitigation area of 1.28 acres.
- Estuarine Tidal Emergent Wetland Mitigation – As per the April 2011 modification request referenced above, no tidal wetland planting/restoration was conducted in the on-site near-shore river excavation/restoration areas. As proposed in the April 2011 modification letter, the PRG entered into an agreement⁹ with Evergreen Environmental, LLC to purchase 0.225 acres of off-site wetland credits from Marsh Resource MRI-3 Wetland Mitigation Bank located within the Hackensack Meadowlands. Following the Department of Army New York District, Corps of Engineers release of the pre-construction mitigation bank credits, a modification to the NJDEP Department of Land Use Regulation permit was submitted¹⁰. The associated bill of sale¹¹ and credit ledger¹² for the purchase of wetland mitigation credits to satisfy outstanding mitigation requirements were provided as proof that mitigation requirements were satisfied.

⁸ NJDEP, May 11, 2011, Electronic Mail Communication RE: Standard Chlorine Chemical Company and Diamond Sites.

⁹ Evergreen Environmental and PRG, September 30, 2011, Agreement for Purchase and Sale of Mitigation Credits, MRI-3 Mitigation Bank.

¹⁰ KEY Environmental Inc., May 21, 2012, Request for Modification to Waterfront Development Permit/Flood Hazard Permit/Water Quality Certification No. 0907-09-0007.1.

¹¹ Evergreen Environmental, LLC, June 25, 2012, Bill of Sale and Conveyance between Evergreen and PRG for 0.225 Wetland Mitigation Credits.

¹² Evergreen Environmental, LLC, June 26, 2012, Evergreen MRI3 Mitigation Bank – Credit Ledger Update NAN-2010-01411, Standard Chlorine: NJDEP File 0907-09-0007.1 WFD 090001.

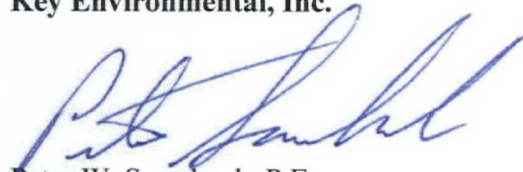
The following documents are attached as part of this Wetland Construction Completion Report:

- Wetland Mitigation Project Completion of Construction Certificate;
- Table 1 – Plant Species, Quantities and Spacing utilized in the constructed Freshwater Wetland Mitigation Project;
- Table 2 – Seeding Schedule utilized in the constructed Freshwater Wetland Mitigation Project;
- Figure 1: Site Location USGS Map (with Coordinates of mitigation area);
- MTG-01 – As-built Drawing;
- Photo Documentation: Photo Location Map; and, photos of the on-site constructed wetlands;
- Appendix A – Permits, Approvals and Agency Correspondence

This letter and documentation is provided for your information and use. If you have any questions or require additional information please do not hesitate to contact me.

Sincerely,

Key Environmental, Inc.



Peter W. Sawchuck, P.E.
Project Manager

cc: S. Dietrick, NJDEP
J. Legg, NJDEP
M. Martello, Town of Kearny
P. Carpenter, Town of Kearny
F. Shapiro, NJMC
N. Guerra, HCIA
M. Slenska, Beazer
M. Gallagher, PH
J. Bolan, PS&S
E. Castro, Tierra
A. Briggs, KEY

COMPLETION OF CONSTRUCTION

THE COMPLETION OF THIS FORM HEREBY CERTIFIES THAT I,

Mark Gallagher
(PRINT NAME)


(SIGNATURE)

8/14/2012
(DATE)

OF THE CONSULTING FIRM: PRINCETON HYDRO, LLC

SUPERVISED THE CONSTRUCTION OF THE REFERENCED WETLAND/STATE OPEN WATER MITIGATION PROJECT, I WAS PRESENT DURING CRITICAL STAGES OF CONSTRUCTION TO CONFIRM THAT ALL CONDITIONS OF THE MITIGATION APPROVAL WERE ADHERED TO, THAT THE ANTICIPATED HYDROLOGY WAS ACHIEVED AND HEREBY CERTIFY THAT THE PROJECT WAS CONSTRUCTED IN CONFORMANCE WITH ALL NJDEP APPROVED PLANS AND SPECIFICATIONS CITED BELOW, INCLUDING FIELD ADJUSTMENTS AGREED UPON DURING ONSITE MEETINGS WITH NJDEP MITIGATION STAFF ON THE FOLLOWING DATES: _____

PERMIT NUMBER (S) NJDEP DLUR Permit No. 0907-09-0007.1, EPA ARARs

ISSUANCE DATE NJDEP DLUR Permit March 26, 2010, NJDEP WMP Approval June 30, 2010, EPA Approval June 11, 2010

NAME OF PERMITTEE NJDEP DLUR Permit Applicants – Standard Chlorine Chemical Co. Inc & Tierra Solutions Inc.

PROJECT NAME Interim Response Action Work Plan

AS-BUILT SURVEY IS IDENTIFIED AS _____

Shoreline Restoration/Wetland Mitigation Plan MTG-01 dated 08/13/09, last revised 12/28/11 prepared by Key Environmental Inc.

ADDRESS OF FIRM Princeton Hydro, LLC, PO Box 720: Ringoes, NJ 08551

TELEPHONE # 908.237.5660

E-MAIL ADDRESS mgallagher@princetonhydro.com

FAX # 908.237.5666

TABLE 1
LIST OF WETLAND PLANTS
FRESHWATER WETLAND MITIGATION
SCCC AND DIAMOND SITES - KEARNY, NJ

Species	Total Quantity Planted	Spacing
Groundsel Bush (Baccharis Halimifolia)	240	80 clusters of 3 plants
Salt Grass (Distichlis Spicata)	2100	3' on center
Swamp Mallow (Hibiscus Moschueta)	300	3' on center
Black Grass (Juncus Gerardi)	300	3' on center
Switch Grass (Panicum Virgatum)	750	3' on center
Salt Marsh Bulrush (Scirpus Robustus)	300	3' on center
Seaside Goldenrod (Solidago Sempervirens)	300	3' on center
Big Cordgrass (Spartina Cynosuroides)	300	3' on center
Salt Meadow Cordgrass (Spartina Patens)	700	3' on center
Prairie Cordgrass (Spartina Pectinata)	750	3' on center

TABLE 2
SEEDING SCHEDULE
FRESHWATER WETLAND MITIGATION
SCCC AND DIAMOND SITES - KEARNY, NJ

Common Name	Species	Seed Quantity (lbs. PLS/Acre)
Annual rye	Lolium multiflorum, OBL	20
Fall panicum	Panicum dichotomiflorum, FACW	3
Barnyard grass	Echinochloa muricata	2
Switch grass	Panicum virgatum	4
Coastal Panic grass	Panicum amarum	5
Lady's Thumb	Polygonum persicaria, FACW	2



PENINSULA RESTORATION GROUP

DRWN: SCC DATE: 08/07/12
 CHKD: RJH DATE: 08/07/12
 APPD: JSZ DATE: 08/07/12
 SCALE: 1" = 2000'

KEY ENVIRONMENTAL
 INCORPORATED

SCCC AND DIAMOND SITES
 KEARNY, HUDSON COUNTY NEW JERSEY
 BLOCK 287 - LOTS 47, 47R, 49, 52 AND 52R

SITE LOCATION MAP

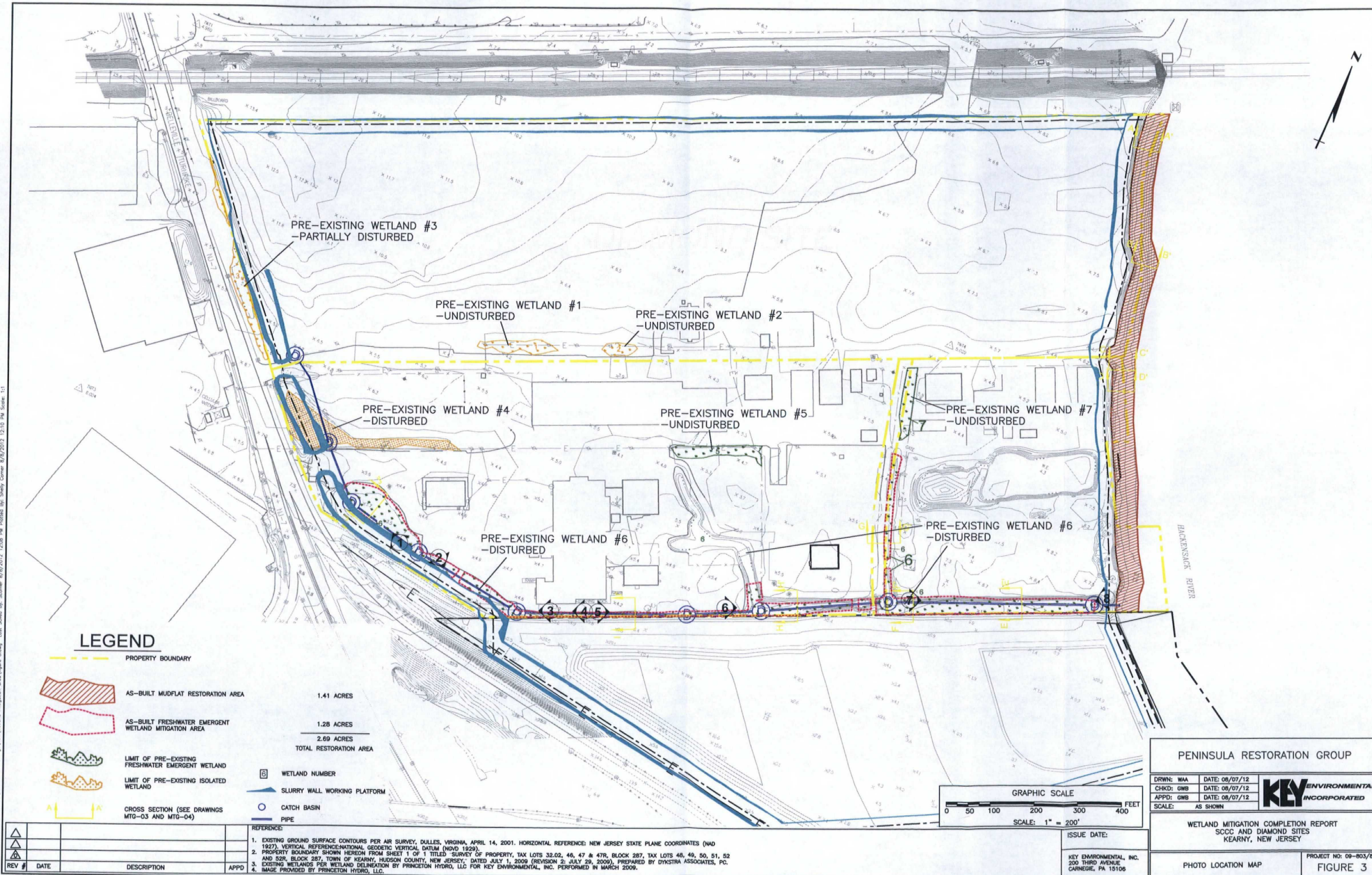
PROJECT NO: 09-803/804
 FIGURE 1

REFERENCE: USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLES
 OF JERSEY CITY, AND WEEHAWKEN, NEW JERSEY

ISSUE DATE:

KEY ENVIRONMENTAL, INC.
 200 THIRD AVENUE
 CARNEGIE, PA 15106

Y:\000\Kearny\as-built\production drawings\wetland mitigation area\figure 3.dwg Last Saved By: Scanner 8/8/2012 12:08 PM Plotted By: Shelly Comer 8/8/2012 12:10 PM Scale: 1:1



LEGEND

- PROPERTY BOUNDARY
- AS-BUILT MUDFLAT RESTORATION AREA
1.41 ACRES
- AS-BUILT FRESHWATER EMERGENT WETLAND MITIGATION AREA
1.28 ACRES
- TOTAL RESTORATION AREA
2.69 ACRES
- LIMIT OF PRE-EXISTING FRESHWATER EMERGENT WETLAND
- LIMIT OF PRE-EXISTING ISOLATED WETLAND
- CROSS SECTION (SEE DRAWINGS MTG-03 AND MTG-04)
- WETLAND NUMBER
- SLURRY WALL WORKING PLATFORM
- CATCH BASIN
- PIPE

REFERENCE:

- EXISTING GROUND SURFACE CONTOURS PER AIR SURVEY, DULLES, VIRGINIA, APRIL 14, 2001. HORIZONTAL REFERENCE: NEW JERSEY STATE PLANE COORDINATES (NAD 1927). VERTICAL REFERENCE: NATIONAL GEODETIC VERTICAL DATUM (NGVD 1929).
- PROPERTY BOUNDARY SHOWN HEREON FROM SHEET 1 OF 1 TITLED "SURVEY OF PROPERTY, TAX LOTS 32.02, 46, 47 & 47R, BLOCK 287, TAX LOTS 48, 49, 50, 51, 52 AND 52R, BLOCK 287, TOWN OF KEARNY, HUDSON COUNTY, NEW JERSEY, DATED JULY 1, 2009 (REVISION 2: JULY 29, 2009), PREPARED BY DYKSTRA ASSOCIATES, PC.
- EXISTING WETLANDS PER WETLAND DELINEATION BY PRINCETON HYDRO, LLC FOR KEY ENVIRONMENTAL, INC. PERFORMED IN MARCH 2009.
- IMAGE PROVIDED BY PRINCETON HYDRO, LLC.

REV	DATE	DESCRIPTION	APPROVED

PENINSULA RESTORATION GROUP

DRWN: WAA	DATE: 08/07/12
CHKD: GWB	DATE: 08/07/12
APPD: GWB	DATE: 08/07/12
SCALE: AS SHOWN	



WETLAND MITIGATION COMPLETION REPORT
SCCC AND DIAMOND SITES
KEARNY, NEW JERSEY

ISSUE DATE:

KEY ENVIRONMENTAL, INC.
200 THIRD AVENUE
CARNEGIE, PA 15106

PHOTO LOCATION MAP

PROJECT NO: 09-803/804
FIGURE 3

**Photo Documentation
Freshwater Wetland Mitigation Area
SCCC and Diamond Sites
Kearny, New Jersey**

(Photo 1) View north west – mitigation area



(Photo 2) View south east – mitigation area



**Photo Documentation
Freshwater Wetland Mitigation Area
SCCC and Diamond Sites
Kearny, New Jersey**

(Photo 3) View north west – mitigation area



(Photo 4) View west – mitigation area



**Photo Documentation
Freshwater Wetland Mitigation Area
SCCC and Diamond Sites
Kearny, New Jersey**

(Photo 5) View east – mitigation area



(Photo 6) View east – mitigation area



**Photo Documentation
Freshwater Wetland Mitigation Area
SCCC and Diamond Sites
Kearny, New Jersey**

(Photo 7) View east – mitigation area



(Photo 8) View west – mitigation area



August 17, 2012
Mitigation Construction Completion Report
SCCC and Former Diamond Sites, Kearny NJ

Appendix A

Permits, Approvals and Agency Correspondence



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

OCT 5 2009

REPLY TO
ATTENTION OF:

Regulatory Branch

SUBJECT: Permit Application Number NAN-2009-01110 for the U.S. Environmental Protection Agency/Standard Chlorine Superfund Site located in Kearny, Hudson County, New Jersey

U.S. Environmental Protection Agency - Region 2
C/o Mr. Edward Als
New York Remediation Branch
290 Broadway
New York, New York 10007-1866

Dear Mr. Als:

This is in response to your letter of August 5, 2009 regarding the U.S. Environmental Protection Agency (EPA) Superfund remedial activities to be implemented at the Standard Chlorine Superfund site and the adjacent Diamond site, located along the Hackensack River, in the Town of Kearny, Hudson County, New Jersey.

As indicated in your letter, remedial activities associated with the Standard Chlorine Superfund site would extend into an adjacent parcel known as the Diamond site. A portion of the proposed remedial activities to be implemented at both sites would include work within wetlands and waters of the United States. These proposed Superfund remedial activities would include:

- the construction and installation a slurry wall around the perimeter of both sites;
- the rehabilitation of the existing bulkhead that extends along the Hackensack River shore line of both sites, performed as part of the slurry wall installation activities;
- the installation of a pump and treat system to remove and treat groundwater contamination and control hydraulics at both sites; and
- the dredging of a portion of the Hackensack River shoreline along both sites.

Your letter additionally indicated that your agency believes the above referenced Superfund remedial activities that would take place in wetlands and waters of the United States at the Diamond site should be considered within the scope of the Superfund response for the Standard Chlorine site. Therefore, based on the above, your agency requests that the New York District of the Corps of Engineers concur with your determination that above referenced work within wetlands and waters of the United States at the Diamond site be considered part of the on-site Superfund response actions



DEPARTMENT OF ENVIRONMENTAL PROTECTION
SITE REMEDIATION PROGRAM
OFFICE OF DREDGING AND SEDIMENT TECHNOLOGY
401 East State Street, P.O. Box 028
Trenton, NJ 08625



PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.		Approval Date March 26, 2010
		Expiration Date March 25, 2015
Permit Number/s 0907-09-0007.1 FHA 080001 WFD080001 CDT080001	Type of Approval/s In-Water Waterfront Development Flood Hazard Area Permit Water Quality Certification Waterfront	Enabling Statute/s NJSA 12:5-3 NJSA 58:10A
Applicant Standard Chlorine Chemical Company, Inc. 1025-1035 Belleville Turnpike Kearny, NJ 07032 Tierra Solutions, Inc. Two Tower Center Boulevard - 10 Floor East Brunswick, NJ 08816		Project Location Interim Response Action Standard Chlorine Chemical Company, Inc 1025-1035 Belleville Turnpike Kearny, Hudson County Interim Response Action Diamond Site 1015 Belleville Turnpike Kearny, Hudson County
Description of Authorized Activities and Limit of Disturbance Construction activities associated with the interim remedial action of the 25-acre Standard Chlorine Chemical Company, Inc (SCCC) site and the 27-acre Diamond Site located on the Hackensack River in Kearny, New Jersey. The remediation of the sites are being implemented pursuant to a Interim Response Action Workplan (IRAW) Addendum approved by the Department on March 27, 2008. The Department's Site Remediation Program is currently reviewing an IRAW addendum submitted on October 2008. The construction activities authorized under this permit consist of the following: <ul style="list-style-type: none">➤ Removal of approximately 6,800 cy of sediments to a depth of approximately 3 feet or to the meadowmat/confining unit in the Hackensack River along the eastern shoreline. Sediment removal will occur approximately 50' waterward of the Sheetpile to be installed along the existing shoreline. The material will be removed using a long reach excavator(s) from the shoreline and placed in either on-site consolidation areas or lagoons which are also being remediated as part of the IRAW or disposed off at an off-site location approved by the Department's Site Remediation Program. The area disturbed during removal of the sediments will be restored to pre-existing elevations using clean fill material.➤ Construction of a slurry wall system enclosing both the SCCC and Diamond Site. Construction of approximately 1,220 feet of steel sheet pile along the Hackensack River at or above the Mean High Water Line elevation of 3.38 feet.➤ Installation of groundwater extraction and/or recovery wells, and associated piping within the 100-year floodplain and areas of the sites under New Jersey Meadowland Commission (NJMC) jurisdiction. A portion of the well system is proposed to be installed on the adjacent Koppers Seaboard Site owned by Hudson County Improvement Authority. SEE PROJECT DESCRIPTION ON PAGE 2 OF THE PERMIT Prepared by <u>Suzanne V. Fratturo</u> THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH IN THIS PERMIT PURSUANT TO N.J.A.C. 7:27E-1.5(b)4.		
		Received or Recorded by County Clerk
This permit is not valid unless authorizing signature appears on the last page.		

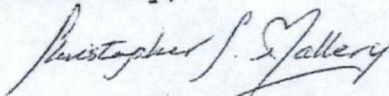
at the Standard Chlorine Superfund site and that no Department of the Army permit be required pursuant to the National Contingency Plan, Title 40 of the Code of Federal Regulations, Section 300.400, Subpart E.

Based on our review of the submitted material, the New York District Corps of Engineers concurs with the EPA's determination that the superfund remedial activities to be performed at the Diamond site are considered part of the on-site Superfund response actions at the Standard Chlorine Superfund site, and that no Department of the Army permit is required for the proposed activities. The determination is based on Regulatory Guidance Letter 85-07 "Superfund Projects" and Part II of the Federal Register dated March 12, 2007 (72 FR 11092) which states:

"Activities undertaken entirely on a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) site by the authority of CERCLA as approved or required by the EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act".

Please contact James Cannon, of my staff, at (917) 790-8412 with any questions you may have regarding this matter.

Sincerely,



for Richard L. Tomer
Chief, Regulatory Branch

Cf: Suzanne Dietrick, NJDEP
Peter W. Sawchuck, P.E., Key Environmental Inc.
Mark Gallagher, Princeton Hydro, LLC.



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF DREDGING AND SEDIMENT TECHNOLOGY

P.O. BOX 028
TRENTON, NEW JERSEY 08625-0028
(609) 292-1250
FAX: (609) 777-1914

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Acting Commissioner

Mr. Peter W. Sawchuck, P.E.
Project Manager
Key Environmental Incorporated
456 Route 22 West
Suite D
Whitehouse Station, New Jersey 08889

March 26, 2010

RE: Waterfront Development Permit/Flood Hazard Permit, Water Quality Certificate
Applicant: Standard Chlorine Chemical Inc. and Tierra Solutions, Inc.
Application No(s): 0907-09-0007.1 FHA 090001 (Flood Hazard Permit)
0907-09-0007.1 WFD090001 (In-Water Waterfront Development Permit)
0907-09-0007.1 CDT0800001 (Water Quality Certificate)
Project: Standard Chlorine Chemical Inc. (SCCC) and Tierra Solutions, Inc. (Diamond Site)
Interim Response Action
City of Kearny, Hudson County
Block: 287, Lots 48,49,50,51,52,52R and portion of lot 32.01 (SCCC site)
Block: 287, Lots 32.02, 46, 47 and 47R (Diamond Site)

Dear Mr. Sawchuck:

Enclosed, please find an approved construction permit. Please read the permit and its terms and Conditions carefully. If you consider yourself aggrieved by our decision regarding your application, you may request a hearing by completing the requirements of the attached *administrative hearing request checklist and tracking form*. Unless you request a hearing to contest this permit or its conditions, you have accepted its terms and conditions.

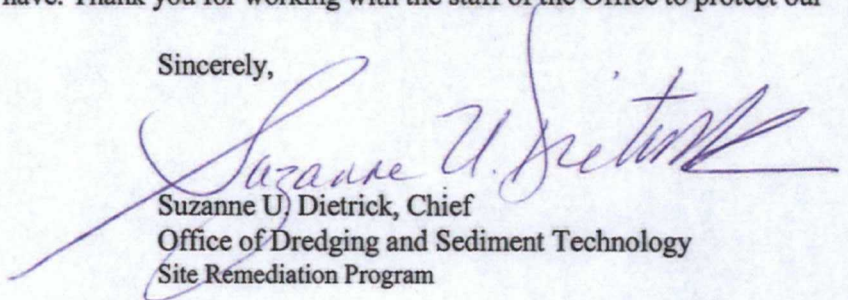
You are required to keep a copy of your permit and the approved drawings at the construction site for the duration of the project. Failure to do so is a violation of the permit.

If you are required to record a Grant of Conservation Restriction/Easement, you must present the Department with proof that you have recorded it within ninety (90) days of issuance of this permit. You may NOT COMMENCE CONSTRUCTION until you have properly recorded the Division of Land Use Regulation approved Grant of Conservation Restriction/Easement documents and fulfilled the pre-construction conditions of this permit.

If a tidelands grant, lease or license is required as a condition of this permit, you may not begin construction until the Bureau of Tidelands Management has delivered the necessary conveyances. Construction prior to the receipt of the necessary conveyances is in violation of State law and will subject you to fines up to \$1,000.00 plus \$100.00 per day. Furthermore, the cost for the tidelands instrument may be higher since the property claimed will be appraised as improved property. You may be required to remove any unauthorized structures placed in tidelands claimed areas.

Please do not hesitate to contact the Office's project manager, listed on the first page of the permit, to discuss any concerns or questions you may have. Thank you for working with the staff of the Office to protect our state's natural resources.

Sincerely,

A handwritten signature in purple ink, reading "Suzanne U. Dietrick".

Suzanne U. Dietrick, Chief
Office of Dredging and Sediment Technology
Site Remediation Program

C: James Cannon, NY District, ACOE, Regulatory Branch
Chris Kanakis, SRP, OBR

Mr. Edward Als
Remedial Project Manager
US EPA Region 2
New York Remediation Branch
290 Broadway, 20th Floor
New York, NY 10007-1866

PROJECT DESCRIPTION (Continued)

- Construction of a groundwater treatment system at elevation 11.0 feet. A temporary surcharge pile will be located in the area of the proposed concrete pad for the groundwater treatment system.
- The removal of contaminated sediment from the South Ditch. The sediment will be placed in the SCCC Consolidation Area. The South Ditch will be converted to a stormwater piping system with discharge to the Hackensack River. The existing 24 inch outfall pipe into the Hackensack River will be reconstructed with a new tide check valve.
- The existing lagoons located on the SCCC site will be dewatered and then backfilled with contaminated soil and/or sediment from other remedial activities at the SCCC site. Once placed, the entire SCCC consolidation area will be capped with an interim surface cover.
- Soil and/or sediment from remedial activities at the Diamond site will be placed in the Diamond Consolidation Area and capped with an interim surface cover.
- A total of 0.06 acres (2,614 square feet) of tidal emergent wetlands included in a total of 1.4 acres (61,000 square feet) of intertidal subtidal shallows will be disturbed for the installation of the steel sheet pile wall and sediment excavation in the Hackensack River. Mitigation is required for this impact.
- A total of 1.59 acres of existing freshwater emergent wetlands and existing isolated wetlands will be permanently disturbed during remedial activities. Mitigation is required for this impact.

The site is located entirely within the New Jersey Meadowlands District. This permit is authorized under, and in compliance with the following Rules on Coastal Zone Management, N.J.A.C. 7:7E-1.1 et seq., specifically; Intertidal and Subtidal Shallows (7:7E-3.15), Wetlands (7:7E-3.27) and Hackensack Meadowlands District (7:7E-3.45). This permit also includes a Water Quality Certification issued pursuant to Section 401 of the Federal Clean Water Act (33USC 1251 et seq).

By issuance of this permit, the State of New Jersey does not relinquish tidelands ownership or claim to any portion of the subject property or adjacent properties. This permit is subject to the permittee receiving the tidelands licences as applied for on December 18, 2009 (DEP File #0907-09-0007.2 TDI090001) and December 22, 2009 (DEP File #0907-09-0007.3 TDI090002) prior to initiation of any construction activities in these designated tideland areas. In addition, this permit is approved subject to, and in accordance with, all applicable Tidelands Grants issued for the Standard Chlorine Company site and the Diamond Site as shown on Tideland Conveyance Map 693-2154 and Property Survey plan dated 7/24/09, last revised 7/29/09 and prepared by Douglas Dykstra, PLS of Dykstra Associates, PC.

The permittee shall allow an authorized Division representative the right to inspect the construction pursuant to N.J.A.C. 7:7E-1.5(b) 4.

STANDARD CONDITIONS:

1. **Extent of approval:**
 - a. This document grants permission to perform certain activities that are regulated by the State of New Jersey. The approved work is described by the text of this permit and is further detailed by the approved drawings listed herein. All work must conform to the requirements, conditions and limitations of this permit and all approved drawings.
 - b. If you alter the project without prior approval, or expand work beyond the description of this permit, you may be in violation of State law and may be subject to fines and penalties. Approved work may be altered only with the prior written approval of the Department.
 - c. You must keep a copy of this permit and all approved drawings readily available for inspection at the work site.
2. **Acceptance of permit:** If you begin any activity approved by this permit, you thereby accept this document in its entirety, and the responsibility to comply with the terms and conditions. If you do not accept or agree with this document in its entirety, **do not begin** construction. You are entitled to request

an appeal within a limited time as detailed on the attached *Administrative Hearing Request Checklist and Tracking Form*.

3. **Recording with County Clerk:** You must record this permit in the Office of the County Clerk for each county involved in this project. You must also mail or fax a copy of the front page of this permit to the Department showing the received stamp from each County Clerk within 30 days of the issuance date.
4. **Notice of Construction:** You must notify the Department in writing at least 7 days before you begin any work approved by this permit by submitting the attached construction report. The Construction Reports are also available at www.nj.gov/dep/landuse.
5. **Expiration date:** All activities authorized by this permit must be completed by the expiration date shown on the first page unless otherwise extended by the Division. At that time, this permit will automatically become invalid and none of the approved work may begin or continue until a replacement permit is granted. (Some permits may qualify for an extension of the expiration date. Please contact the Department for further information.)
6. **Rights of the State:**
 - a. This permit is revocable and subject to modification by the State with due cause.
 - b. Representatives from the State have the statutory authority to enter and inspect this site to confirm compliance with this permit and may suspend construction or initiate enforcement action if work does not comply with this permit.
 - c. This permit does not grant property rights. The issuance of this permit shall not affect any action by the State on future applications, nor affect the title or ownership of property, nor make the State a party in any suit or question of ownership.
7. **Other responsibilities:** You must obtain all necessary local, Federal and other State approvals before you begin work. All work must be stabilized in accordance with the *Standards for Soil Erosion and Sediment Control in New Jersey*, and all fill material must be free of toxic pollutants in toxic amounts as defined in section 307 of the Federal Act.

SPECIAL CONDITIONS:

8. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit.
9. **Consistency with the Areawide Water Quality Management Plan:** The Department of Environmental Protection, as the Statewide Water Quality Management Planning Agency, has reviewed your project for consistency with the provisions and recommendations of the Hudson County Water Quality Management Plan. We have found your project to be consistent with this plan. Please be advised that if changes are made to the proposed plans which would result in a change in anticipated wastewater flow volumes, such as the addition of sewage generating structures or a proposed increase in size to previously proposed structures; or if there is a change in the proposed method of wastewater treatment, this determination is no longer valid. The amended plans must be submitted to the Department to determine Consistency with the Water Quality Management Plans.
11. All necessary local, Federal, and other State approvals must be obtained by the applicant prior to the commencement of the herein-permitted activities.
12. The drawings hereby approved are:

T-01, E-01, IRA-01, ESA-01 to 02, SSP-01 to SSP-04, CBS-01 to CBC-04, SD-01 to SD-02, SC-CA-01 to SC-CA-03, DS-CA-01 to DS-CA-03, SM-01 to SM-03, DW-01, SWM-01 to SWM-04, SPA-01 to SPA-03 and MTG-01 to MTG-04 consisting of thirty-six sheets entitled "Land Use Regulation Permit Application Drawings, SCCC and Diamond Sites, Kearny, Hudson County, New Jersey, dated 9/1/09 last

revised 11/23/09 (Sheet E-01 only), and prepared by Alan E. Briggs, P.E. of Key Environmental Incorporated.

13. This authorization of activities includes a transition area waiver for work in the transition area determined by the Department, which is necessary to accomplish the regulated activity. In addition, the permit to conduct a regulated activity in a wetland or open water includes the Department's approval of a Water Quality Certificate for these activities.
14. The permittee shall comply with the conditions specified in the Interim Response Action Workplan (IRAW) Addendum approved by the Department on March 27, 2008, and any amendments thereto as approved by the Department's Site Remediation Program.
15. The permittee shall install a turbidity curtain along the entire length of the sediment removal as depicted on the approved plans. Said turbidity curtains shall be maintained during the entire removal action within the Hackensack River.
16. Any future development on this site located in the Flood Hazard Area or in a riparian zone or any development which will increase the stormwater discharge, shall require a new Flood Hazard Area Permit from the Division of Land Use Regulation.
17. Any future development on the site shall comply with the Public Trust Rights Rule (7:7E-8.11). Said public access shall comply with the standards found at 7:7E-8.11(e) for development along the Hackensack River.

MITIGATION CONDITIONS:

Failure to comply with the standards herein constitutes a violation of the Rules on Coastal Zone Management and subjects the permittee to appropriate enforcement action and/or suspension or revocation of the permit. **This permit is not effective for the purpose of conducting regulated activities authorized by this permit until the following special conditions are satisfied:**

1. Mitigation must be done prior to or concurrent with regulated activity. At any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole. For example, when the project is 50 percent completed, the mitigation project cannot be less than 50 percent completed.
2. The mitigation proposal must be submitted to the Division **prior to the initiation of regulated activities authorized by this permit**. Mitigate for the loss of 0.06 acres of estuarine wetlands and 1.4 acres of intertidal subtidal shallows through either an on-site or off-site creation, restoration or enhancement project as detailed in condition numbers 4 through 20.
3. Mitigation for the loss of 1.59 acres of freshwater emergent wetlands is required by the United States Environmental Protection Agency, Region 2 under CERCLA. The permittee shall provide the Department with the approval letter from the USEPA Region 2 of the mitigation plan.
4. **Within 30 days of the issuance of this permit**, for an on-site or off-site individual mitigation project, the permittee must submit a mitigation proposal to the Division of Land Use Regulation (Division) for review and approval. The mitigation proposal must include the creation, restoration and/or enhancement of an area of tidal wetlands and intertidal subtidal shallows of equal ecological value to those that will be lost by the authorized activity. This proposal must include a proposed construction schedule for the mitigation project. **Prior to commencement of regulated activities authorized by this permit, the Division must approve of the proposed mitigation project in writing.** Failure to comply with Items a. and b. below will subject the permittee to appropriate enforcement action.
 - a. **Within 30 days of the issuance of this permit** submit for review and approval a **conceptual plan** showing the location and proposed hydrology of the mitigation site.

- b. **Within 30 days of receiving Division approval of the conceptual mitigation proposal**, the permittee must submit a **final design** of the mitigation project and include all the items listed on the checklist entitled Checklist for Completeness: Creation, Restoration or Enhancement for a Freshwater Wetland Mitigation Proposal located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
5. In the event that there is a conflict between the permit conditions and the approved mitigation plans and proposal, the permit conditions take precedent.
6. This permit is not effective until the permittee has completed, signed and filed with the County Clerk (the Registrar of Deeds and Mortgages in some counties), the Division approved conservation restriction for the mitigation site. An example copy of the Wetlands Mitigation Area Model Deed/Conservation Restriction is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>. A draft copy of the deed restriction must be submitted to the Department for review and approval **prior** to filing the conservation restriction in the office of the County Clerk. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the final wetland mitigation proposal. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the Division for verification.
7. At least thirty (30) days in advance of the start of construction of the wetland mitigation project, the permittee shall notify the Division, in writing, for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Division.
8. The mitigation designer must be present on-site during critical stages of construction of the mitigation project. This includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection to ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape.
9. Mitigation designs are not static documents and changes may be necessary to ensure success of the project. Should the mitigation designer determine that the mitigation plan as designed and approved by the Division will not achieve the proposed wetland condition due to the actual conditions encountered during construction, the mitigation designer must immediately notify the Division. The mitigation designer must propose an alternative plan to achieve the proposed wetland condition that must be approved by the Division in writing. If the Division provides the mitigation designer with comments on the alternative plan, the mitigation designer shall revise the plan to conform to the Division's comments. Solely the Division shall make the determination as to whether or not the alternative plan as submitted conforms to the Divisions comments. Any modifications to the plan that are approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion Report may serve as the signed and sealed revised plans required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.
10. The permittee shall assume all liability for accomplishing corrective work should the Division determine that the compensatory mitigation has not been 100% successful. Remedial work may include re-grading and/or replanting the mitigation site. This responsibility is incumbent upon the permittee until such time that the Division makes the finding that the mitigation project is successful.
11. Within 5 days following final grading of the site, a disc must be run over the site to eliminate compaction. The mitigation designer must be present to oversee this phase of the project and confirm with the Division this activity has occurred prior to planting of the site.
12. Following the final grading of the mitigation site and prior to planting, the permittee shall notify the Division for a post-grading construction meeting between the permittee, contractor, consultant and the Division. The permittee must give the Division at least thirty (30) days notice prior to the date of this meeting.

13. Within 30 days following the final planting of the mitigation project, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction. The Construction Completion Report shall contain, at a minimum, the following information:
- A completed Wetland Mitigation Project Completion of Construction Form. This form is located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html> and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;
 - As-Built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes;
 - Show on the as-built plans that the boundaries of the wetland mitigation area have been visibly marked with 3 inch white PVC pipe extending 4 feet above the ground surface. The stakes must remain on the site for the entire monitoring period;
 - Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983;
 - To document that the required amount of soil has been placed/replaced over the entire area of the mitigation site, provide a minimum of 6 soil profile descriptions to a depth of 20 inches. The location of each soil profile description should be depicted on the as built plan as well as provide the GPS waypoints in NJ state plane coordinates NAD 1983;
 - Submit soil test results demonstrating at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials;
 - The permittee shall post the mitigation area with several permanent signs as shown on the approved mitigation plan which identify the site as a wetland mitigation project and that development mowing, cutting, dumping and draining of the property is prohibited; and
 - The signs must also state the name of the permittee, Department's permit number along with a contact name and phone number.
14. If the Division determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Division until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan, all soil has been stabilized and there is no active erosion.
15. The permittee shall monitor the mitigation project for 5 full growing seasons if it is a proposed forested or scrub/shrub wetland and 3 full growing seasons for an emergent wetland or State open water beginning the year after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Use Regulation no later than December 31st of each full monitoring year. All monitoring reports must include the standard items identified in the checklists entitled Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist and the information requested below. The Wetland Mitigation Monitoring Project Checklist and Tidal Wetland Mitigation Monitoring Checklist are located on the Internet at <http://www.nj.gov/dep/landuse/forms/index.html>.
16. All monitoring reports must include all of the following information:
- All monitoring reports except the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the permittee is finding

problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed;

- b. All monitoring reports except the final one must include field data to document that the site is progressing towards 85 percent survival and 85 percent area coverage of mitigation plantings or target hydrophytes (Target hydrophytes are non-invasive native species to the area and similar to ones identified on the mitigation planting plan). If the proposed plant community is a scrub/shrub or a forested wetland the permittee must also demonstrate each year with data that the woody species are thriving, increasing in stem density and height each year. If the field data shows that the mitigation project is failing to meet the vegetation survival, coverage and health goals, the monitoring report should contain a discussion of steps that will be taken to rectify the problem, including a schedule of implementation;
- c. All monitoring reports except the final one must include documentation of any invasive or noxious species (see below for list of species) colonizing the site and how they are being eliminated. The permittee is required to eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site during the monitoring period;
- d. All monitoring reports except the final one must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed;
- e. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);
- f. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes. The permittee must also document that all plant species are healthy and thriving and if the proposed plant community contains trees demonstrate that the trees are at least five feet in height;
- g. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiole* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Berberis thunbergii* (Japanese barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteinii* *maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillosum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindletree), *Lespedeza cuneata* (Chinese bush-clover), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry).

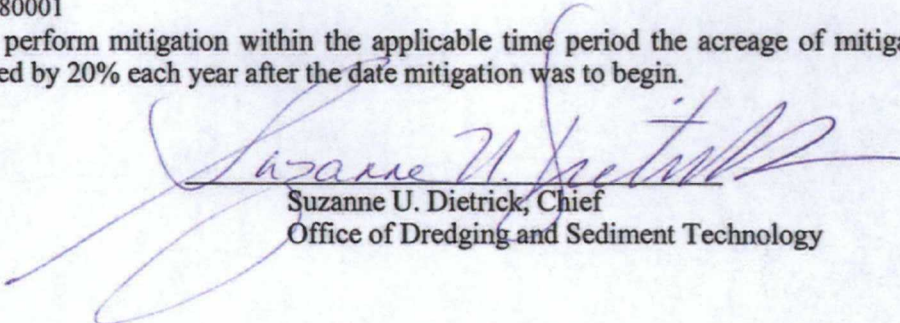
- h. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period; and
 - i. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil throughout the delineated wetlands.
17. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
 - a. That the goals of the wetland mitigation project including acreage and the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows the exact _____ acreage of State open waters, emergent, scrub/shrub and/or forested wetlands in the mitigation area;
 - b. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area are healthy and thriving. All trees are at least five feet in height;
 - c. The final monitoring report must include documentation demonstrating the site is less than 10 percent occupied by invasive or noxious species such as but not limited to (Source: Snyder, David and Sylvan R. Kaufman. 2004. An overview of nonindigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, New Jersey. 107 pages.): *Acer platanoides* (Norway Maple), *Ailanthus altissima*, (Tree of Heaven), *Allaria petiole* (Garlic mustard), *Ampelopsis brevipedunculata* (Porecelain berry), *Berberis thunbergii* (Japanese barberry), *Carex kobomugi* (Japanese sedge), *Celastrus orbiculatus* (Asian Bittersweet), *Centaurea biebersteiniior maculosa* (Spotted knapweed), *Cirsium arvense* (Canadian thistle), *Dipsacus fillosum* (Wild teasel), *Dipsacus laciniatus* (Cut-leaf teasel), *Elaeagnus umbellata* (Autumn olive), *Euonymus alata* (Winged spindle tree), *Lepedeza cuneata* (Chinese bush-clover), *Lonicera japonica* (Japanese honeysuckle), *Lonicera morrowii* (Morrow's bush honeysuckle), *Lonicera tartarica* (Tartarian honeysuckle), *Lythrum salicaria* (Purple loosestrife), *Melilotus officinalis* (Yellow sweetclover), *Microstegium vimineum* (Japanese stiltgrass), *Myriophyllum spicatum* (Eurasian water-milfoil), *Polygonum cuspidatum* (Japanese knotweed), *Polygonum perfoliatum* (Mile-a-minute), *Potamogeton crispus* (Curly leaf pondweed), *Ranunculus ficaria* (Lesser celandine), *Rhamnus cathartica* (Common buckthorn), *Robinia pseudoacacia* (Black locust), *Rosa multiflora* (Multiflora rose), *Rubus phoenicolasius* (Wineberry).
 - d. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
 - e. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied. This criteria must be satisfied to prove the mitigation site is a wetland.
18. All remaining financial surety, if required, will be released concurrent with the Division notifying the permittee that the mitigation project is a success.
19. If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan in order to meet the success criteria identified in Condition No. 18 above. The plan shall be submitted within 30 days of receipt of the letter from the Division indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria as stipulated in condition number 19.

Permit No.: 0907-08-0001.1 FHA 080001

FWW080001, WFD080001, CDT 080001

20. If the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin.

3/26/10
DATE


Suzanne U. Dietrick, Chief
Office of Dredging and Sediment Technology



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

June 11, 2010

Pete Sawchuck, Project Manager
Key Environmental, Inc.
456 US Highway 22 West, Suite 3
Whitehouse Station, NJ 08889

received
6-15-10
Key. NJ

Dear Mr. Sawchuck:

This letter is a follow-up to my May 21, 2010 email to you regarding whether the Peninsula Restoration Group (PRG) has satisfactorily addressed federally applicable or relevant and appropriate requirements (ARARs) that potentially affect the interim response actions (IRA) currently planned for the near future at the Standard Chlorine Superfund site (Site), Kearny, NJ. While the IRA is being performed pursuant to a NJ State order, the examination of potential federal ARARs has been considered appropriate because of the Site's recent addition to the National Priorities List of Superfund sites.

To date, EPA's Superfund program has examined relevant information or coordinated with appropriate authorities on federal ARARs relating to cultural resources, federally endangered species, on-site placement of contaminated materials, wetlands and floodplains at the Site. EPA feels that these requirements have been satisfactorily identified and addressed prior to the start of the IRA. Ongoing compliance with these requirements, as appropriate, is also anticipated to continue through the duration of the IRA's performance.

Sincerely,

Edward G. Als, Remedial Project Manager
Standard Chlorine Superfund Site



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

P.O. Box 439, Trenton, NJ 08625-0439

Tel. 609-292-0060

Fax # (609) 777-3656

www.state.nj.us/dep/landuse

received
July 02, 2010

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Mr. Peter W. Sawchuck, P.E.
Project Manager
Key Environmental Incorporated
456 Route 22 West
Suite D
Whitehouse Station, New Jersey

JUN 30 2010

RE: Wetland Mitigation Plan Approval
NJDEP Application No(s): 0907-09-0007.1 FHA 090001 (Flood Hazard Permit), 0907-09-0007.1 WFD 090001 (In-Water Waterfront Development Permit), 0907-09-0007.1 CDT 0800001 (Water Quality Certificate)
Project: "Standard Chlorine Chemical Inc. (SCCC) and Tierra Solutions, Inc. (Diamond Site) Interim Response Action"
Location: Block: 287, Lots 47, 47R, 49, 52, 52R
City of Kearny, Hudson County

Dear Mr Sawchuck:

The New Jersey Department of Environmental Protection, Division of Land Use Regulation is writing in response to the document entitled "SHORELINE RESTORATION AND TIDAL EMERGENT WETLAND MITIGATION PLAN" (Mitigation Plan), dated April 2010 and prepared by Key Environmental Incorporated. The mitigation plan was prepared to satisfy the mitigation conditions of the above referenced permit issued on March 26, 2010. The permits authorized permanent impacts of 1.34 acres to intertidal subtidal shallows and 0.06 acres of estuarine wetlands for the installation of the steel sheet pile wall and sediment excavation in the Hackensack River. In addition, 1.59 acres of existing freshwater emergent wetlands and isolated wetlands will also be permanently disturbed during remedial activities. Mitigation for impacts to the freshwater emergent wetlands is a requirement of the US EPA.

The Division has reviewed the proposed mitigation project and has determined that the mitigation for intertidal subtidal shallows and estuarine wetlands was prepared in accordance with the Coastal Zone Management Rules. Therefore, the Division hereby approves the mitigation plan. Specifically, the Division is approving the mitigation project shown on the plan entitled, "SHORELINE RESTORATION AND TIDAL EMERGENT WETLAND MITIGATION PLAN SCC AND DIAMOND SITES, KEARNY, HUDSON COUNTY NEW JERSEY, BLOCK 287-LOTS 47, 47R, 49, 52, AND 52R" sheets MTGTE-00-04, dated April, 23, 2010, prepared by Key Environmental Incorporated.

We look forward to working with you in the coming months as this mitigation project progresses. Please contact Jill Aspinwall of my staff at (609) 777-0454 or by email at Jill.Aspinwall@dep.state.nj.us, should you have any questions concerning this letter.

Sincerely,



Diane Dow, Section Chief
Bureau of Technical Services

Cc: Suzanne Dietrick, ODST



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

MAY 9 - 2012

REPLY TO
ATTENTION OF:

Regulatory Branch

SUBJECT: Evergreen Environmental, LLC for the Evergreen MRI3
Mitigation Bank, Permit Number NAN-2010-01411, Initial Credit
Release

Evergreen Environmental, LLC
C/o Mr. Mark Renna
425 Darby Paoli Road
Wayne, Pennsylvania 19087

Dear Mr. Renna:

In accordance with Title 33 CFR Part 332.8(o)(9), and your submittals dated March 8, 2012, April 19, 2012 and May 3, 2012, the New York District of the U.S. Army Corps of Engineers (Corps) has reviewed, in consultation with the Interagency Review Team (IRT), the initial credit pre-release items submitted by Evergreen Environmental, LLC (Evergreen) and detailed in Part IV, Section F(1) of the executed mitigation banking instrument entitled "Evergreen MRI3 Mitigation Bank, Mitigation Banking Instrument", and dated December 2011 (MBI). The initial credit pre-release items include: (a) the approval of the banking instrument by the Corps of Engineers, New Jersey Department of Environmental Protection (NJDEP) and the Interagency Review Team; (b) the posting of financial assurances; (c) the recording of the conservation restriction as shown in Exhibit B; (d) the submission of a schedule to the IRT that shows that the initial physical and biological improvements will be completed no later than the first full growing season following initial debiting from the bank; (e) the securing of all applicable regulatory permits and approvals; (f) the identification of candidate long term owners; and (g) the submission of an electronic version of the banking instrument, the Bank development plan and associated exhibits.

The New York District has reviewed the casualty insurance binder Evergreen provided on May 4, 2012. This office finds that the binder meets the requirements for financial assurances, provided Evergreen complies with the following special conditions:

1. The insurance policy to be provided conforms to the insurance binder, and to the specimen policy reviewed by the New York District Counsel.

SUBJECT: Evergreen Environmental, LLC for the Evergreen MRI3 Mitigation Bank, Permit Number NAN-2010-01411, Initial Credit Release

2. The Insurance Policy paragraph VI.C.2.a states that coverage shall terminate on the "policy period" expiration date. The Bank Sponsor shall provide the Corps and NJDEP with 90 days' advance written notice of such termination. The Bank Sponsor agrees, in the event the mitigation project has not met all performance standards at the time of termination, that the Corps and NJDEP retain the right to require that the casualty insurance policy be extended or renewed, or that another form of financial assurance acceptable to the Corps and NJDEP be obtained, beyond the "policy period" expiration date.

3. In cases other than policy termination, the Bank Sponsor shall provide no less than 60 days' advance written notice to the Corps and NJDEP, of each proposed reduction in the limit of insurance coverage. The Bank Sponsor agrees that the Corps and NJDEP retain the right to disapprove a proposed coverage reduction if, in the judgment of the Corps or NJDEP, the mitigation project has not met all performance standards at the time of proposed reduction.

4. Notwithstanding any language of Section III.D. of the Mitigation Banking Instrument to the contrary, the Bank Sponsor understands that a reduction in the required amount of financial assurance will not, in this case, result in a release of funds to the Bank Sponsor.

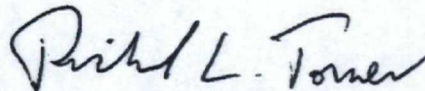
5. No later than April 15 of each year 2013 through 2022, the Bank Sponsor shall report to the Corps its actual expenses of construction, planting, monitoring, and maintenance, for the prior calendar year.

Provided the conditions set forth above are met, this office can determine that Evergreen Environmental, LLC has successfully met the terms stipulated for the initial credit release for the Evergreen MRI3 Mitigation Bank, and Special Condition (A) of its permit authorization. Please indicate acceptance of these conditions by signing in the space indicated below and returning this page with an original signature, to this office. Upon this offices receipt of your acceptance, a total of 2.14 wetland credits shall be eligible for release.

SUBJECT: Evergreen Environmental, LLC for the Evergreen MRI3
Mitigation Bank, Permit Number NAN-2010-01411, Initial Credit
Release

If any questions should arise concerning this matter, please
contact James Cannon, of my staff, at (917) 790-8412.

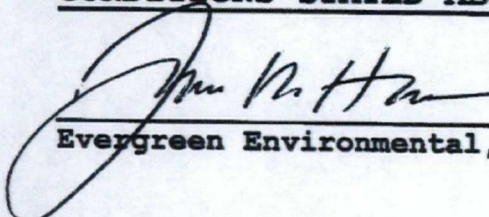
Sincerely,



Richard L. Tomer
Chief, Regulatory Branch

Cf: IRT
Meadowlands Conservation Trust

CONDITIONS STATED ABOVE ARE ACCEPTED.



Evergreen Environmental, LLC

5/10/12
Date



James R. Holt, Jr.

Partner

610-687-4458 direct dial

jholt@evergreenenv.com

June 24, 2012

Mr. Peter W. Sawchuck, P.E.
Vice President
Key Environmental, Inc
120 Exchange Street
Portland, ME 04101

RE: Bill of Sale and Conveyance for 0.225 Wetland Mitigation Credits
From the Evergreen MRI3 Mitigation Bank ("Bank")
Between Evergreen Environmental, LLC and the Peninsula Restoration Group

Dear Mr. Sawchuck,

Enclosed please find an executed original Bill of Sale and Conveyance conveying 0.225 Wetland Mitigation Credits ("Credits") from the Bank to the Peninsula Restoration Group. Also enclosed please find copies of the verification letters sent to the U.S. Army Corps of Engineers and the New Jersey Department of Environmental Protection ("NJDEP") to confirm that the Credits have been deducted from the ledger to satisfy the conditions of NJDEP-approved Interim Response Action Work Plan for the Standard Chlorine Chemical Co., Inc. site and the former Diamond Shamrock site, located in the Town of Kearny, New Jersey and the U.S. EPA ARAR Approval for wetlands and the NJDEP Land Use In-Water Waterfront Development, Flood Hazard and Water Quality Certification, No. 0907-0007.1.

Evergreen Environmental is pleased that we were able to assist Key Environmental and your client with this mitigation need. Should you have any additional needs, please feel free to call me at (610) 687-4458.

Sincerely,

James R. Holt, Jr.

Enclosures

BILL OF SALE AND CONVEYANCE

This BILL OF SALE AND CONVEYANCE is made on June 8, 2012 between EVERGREEN ENVIRONMENTAL, LLC ("Grantor"), whose mailing address is 425 Darby Paoli Road, Wayne, PA 19087, and the Peninsula Restoration Group, ("Grantee"), whose mailing address is c/o Key Environmental, Inc, 120 Exchange Street, Portland, ME 04101.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT:

1. Grantor, for and in consideration of the purchase price set forth in that certain Agreement for Purchase and Sale of Wetland Mitigation Credits, as amended, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, conveyed, assigned, delivered (transferred ownership of), and by these presents does hereby grant, bargain, sell, convey, assign and deliver unto Grantee, in accordance with the terms and provisions hereinafter set forth, the following Wetland Mitigation Credits, approved for release by the United States Army Corps of Engineers (USACE) under letter agreement dated May 9, 2012, and enabled pursuant to the terms of the Banking Instrument effective February 7, 2012, by and among Grantor, USACE, and the U. S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, New Jersey Department of Environmental Protection and New Jersey Meadowlands Commission:

0.225 wetland mitigation credits ("Credits".)

2. The Grantor acknowledges receipt of the purchase price.
3. The Grantor promises that the Grantor has done no act to encumber the Credits conveyed herein.
4. As to the Credits conveyed herein, the Grantor warrants title, condition, fitness for purpose and gives all other express or implied warranties required or allowed by statutory and common law. Grantee and all persons claiming by, through or under it shall, to the extent permitted by law, be subrogated to all of the rights of Grantor in or with respect to any warranties and covenants made by others with respect to the Credits conveyed hereby.
5. The conveyance set forth herein is made as of the date at the top of the first page.

IN WITNESS WHEREOF, Grantor has caused this Bill of Sale and Conveyance to be executed and attested to by its proper corporate officers and its corporate seal is affixed.

Attest:

EVERGREEN ENVIRONMENTAL, LLC

Lucy B. Long

By James R. Holt, Jr.

Title: Manager

COMMONWEALTH OF PENNSYLVANIA §

COUNTY OF DELAWARE §

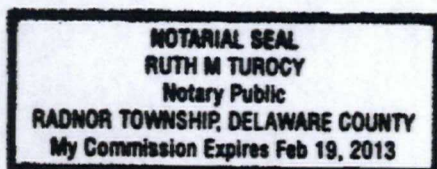
I certify that on June 25, 2012, Lucy Long personally came
(Attesting Witness' Name)
before me and stated under oath to my satisfaction that:

- (a) This person is the attesting witness to the signing of the annexed Bill of Sale and Conveyance;
- (b) This Bill of Sale and Conveyance was signed by James R. Holt, Jr.,
(Executive's Name)
who is a Manager of Evergreen Environmental, LLC, the Grantor named in the annexed Bill of Sale and Conveyance, and who is fully authorized to and did execute this Bill of Sale and Conveyance on the Grantor's behalf;
- (c) The attesting witness signed this proof under oath to attest to the truth of these facts.

Lucy Long
Name of Attesting Witness

Signed and Sworn to Before Me
On this 25th day of June, 2012

Ruth M. Turocy
NOTARY PUBLIC





EVERGREEN ENVIRONMENTAL

June 26, 2012

Mr. James Cannon
U.S. Department of the Army
New York District, Corps of Engineers
Jacob K. Javits Federal Building,
Room 1937
New York, New York 10278-0090

Ms. Susan Lockwood
Supervising Environmental Specialist
New Jersey Department of
Environmental Protection
Division of Land Use
P.O. Box 439
Trenton, New Jersey 08625-0439

Re: Evergreen MRI3 Mitigation Bank – Credit Ledger Update
NAN-2010-01411
Standard Chlorine: NJDEP File 0907-09-0007.1 WFD 090001

Dear Mr. Cannon and Ms. Lockwood:

Evergreen Environmental, LLC (Evergreen) is pleased to submit the attached updated ledger pursuant to our MBI. The ledger reflects the transfer of 0.225 credit to permittee Standard Chlorine for permitted impact mitigation debt.

Please do not hesitate to contact me should you require further information at 973/305-0643.

Sincerely,
EVERGREEN ENVIRONMENTAL, LLC

Mark Renna, Vice President

Enclosure

**Evergreen MRI3 Mitigation Bank
Exhibit E: Crediting and Debiting Ledger
June 26, 2012**

[illegible]